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Subject: OPPT/OPP/OCPP Clips 4/18

OPPT/OPP/OCPP Daily News Clips

April 18, 2019

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Asbestos

Chemical Watch

US EPA issues final Snur for asbestos: Critics say loophole-closing TSCA rule is insufficient.

<https://chemicalwatch.com/76690/us-epa-issues-final-snur-for-asbestos>

Kelly Franklin

Posted: April 18, 2019

The US EPA has finalised a TSCA significant new use rule (Snur) for asbestos, closing a "30-year-old loophole" that has allowed abandoned uses of asbestos in products to return to the market without review, it says.

The Snur, proposed last August, covers a variety of products (see box) that have been discontinued but are otherwise not regulated. And the final version expands the proposal's list to include "any other use of asbestos that is neither ongoing nor already prohibited under TSCA."

Leaked internal emails last summer showed that EPA staff had concerns that without such a catch-all category, a failure to comprehensively list all abandoned uses could leave gaps.

With the rule in place, anyone wishing to resume the manufacture, import or process of asbestos for any of these uses would need to provide notification first. This would allow the EPA to evaluate the potential risk and "take any necessary regulatory action, which may include a prohibition."

"Prior to this new rule, EPA did not have the ability to prevent or restrict certain asbestos products from being reintroduced into the market," said EPA Administrator Andrew Wheeler.

"This new rule, combined with our ongoing risk evaluations, gives us unprecedented authorities to protect public health from domestic and imported asbestos products and gives us the ability to prohibit asbestos products from entering or reentering the market."

TSCA risk evaluation

The EPA described the Snur as a 'complement' to its ongoing risk evaluation of the limited, still ongoing uses of asbestos – one of the first ten substances subject to assessment under the amended TSCA. The scope of the review includes:

- asbestos diaphragms for use in the chlor-alkali industry;
- sheet gaskets for use in chemical production;
- brake blocks used in oil drilling equipment; and
- certain aftermarket automotive parts.

The EPA had previously planned to evaluate cement products, woven products and packings, but set those aside when it could not confirm those uses are still active. Instead, those uses are now covered by the Snur.

The agency says that if its risk evaluation – which is due to be finalised in December – determines any of the ongoing uses of asbestos pose unreasonable risk to human health or the environment, it will "take prompt action to address those risks, which could include restricting or banning other asbestos uses in products."

'Half step'

The move represents the first action to regulate asbestos under TSCA since 1989, when the EPA attempted to ban most asbestos-containing products under a section 6 rule.

A 1991 court ruling, however, largely overturned the regulation. And consequently, the only existing prohibitions on asbestos in the US are on "new" uses – defined as those initiated after 25 August 1989 – as well as on five specific uses: corrugated paper, rollboard, commercial paper, speciality paper and flooring felt.

Nevertheless, consumer advocacy groups were quick to dismiss the Snur as inadequate.

"This new rule makes it more difficult for industry to resume some abandoned uses of asbestos, but that is a half step at best," said Melanie Benesh, legislative attorney at EWG.

Linda Reinstein, president of the Asbestos Disease Awareness Organization, added that the "toothless regulation ... does not ban these uses, but leaves the door open to their return to the marketplace."

But the American Chemistry Council said the rule will strengthen the EPA's ability to regulate the substance by reinforcing restrictions on products that "have not been used in decades". Under the Snur, potential new uses would be subject to "rigorous safety review, regulation and restrictions," it added.

Nonetheless, Ms Benesh said a full ban is the "only way the public can trust industry will never again be able to use this dangerous material that has literally killed tens of thousands of Americans."

Legislation was introduced in Congress last month to amend TSCA to prohibit the manufacture, processing and distribution of asbestos and articles containing it. The Alan Reinstein Ban Asbestos Now Act of 2019 (HR 1603) has been referred to two House of Representatives committees for further consideration.

Covered uses

The following uses are subject to the Snur:

- adhesives, sealants, and roof and non-roof coatings;
- arc chutes;
- beater-add gaskets;
- cement products;
- extruded sealant tape and other tape;
- filler for acetylene cylinders;
- friction materials (with certain exceptions);
- high-grade electrical paper;
- millboard;
- missile liner;
- packings;
- pipeline wrap;
- reinforced plastics;
- roofing felt;
- separators in fuel cells and batteries;
- vinyl-asbestos floor tile;

- woven products;
- any other building material; and
- any other use of asbestos that is neither ongoing nor already prohibited under TSCA.

For the purposes of the rule, asbestos is defined as "asbestiform varieties of six fibre types: chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite".

CNN Politics

EPA announces nearly complete ban on asbestos

<https://www.cnn.com/2019/04/17/politics/epa-asbestos/index.html>

Gregory Wallace

Posted: 7:40pm, April 17, 2019

(CNN)The Environmental Protection Agency on Wednesday announced a nearly complete ban on the manufacturing and importing of asbestos.

The rule will close loopholes in a decades-old partial ban, and EPA is separately reviewing the limited instances where asbestos is still used in industrial processes or included in products, said Alexandra Dunn, the agency's assistant administrator overseeing chemical regulation.

"We had a very dangerous loophole that we had not addressed," Dunn told CNN on Wednesday. "We're essentially closing the door on these products. We are making sure they cannot come into the marketplace without action from the EPA."

When the agency proposed this Significant New Use Rule, or SNUR, last summer, safety advocates raised concerns that it would allow importers and manufacturers to apply for an EPA permit, and the prohibited uses were narrowly construed. But Dunn said a SNUR is the agency's best regulatory option, considering it does not have the authority for an outright ban.

She said the agency received "extensive" feedback on the proposal, and expanded the scope of the proposal to include any use of asbestos not currently taking place.

The industry group American Chemistry Council voiced support for the rule, which it said "will strengthen EPA's ability to regulate asbestos."

The industry group also said that any requests for exceptions to the ban would require "a rigorous safety review, regulation and restrictions."

Gary Timm, a retired EPA official who now works with the Environmental Protection Network, said the rule is a positive action by the Trump administration.

"Most of the things coming out of the EPA these days aren't good," he said, "but their asbestos work is so well documented."

He said the natural next step for the agency would be to work toward an outright ban on asbestos use.

Asbestos is still used in a limited number of industrial settings, such as for filtering chemicals, and is included in some vehicle brakes. But the widespread use of asbestos in building products, including insulation, was discontinued years ago.

One mesothelioma victims advocacy group, the Asbestos Disease Awareness Organization, said EPA's actions were "deeply disappointing" and called for Congress to take action on a more complete ban.

EPA is currently reviewing the ongoing uses of asbestos, and could propose a ban or further restrictions, Dunn said. She pointed out a number of laws and regulations govern the processing and clean up of buildings constructed with asbestos.

Asbestos is a naturally occurring substance that is mined and prized for its string-like fibers. It has been linked to mesothelioma, which causes about 3,000 deaths annually, according to 2017 CDC data.

EPA Administrator Andrew Wheeler said in a statement the regulation will give EPA "unprecedented authorities to protect public health from domestic and imported asbestos products."

EcoWatch

New EPA Asbestos Rule Falls Short of Full Ban

<https://www.ecowatch.com/epa-asbestos-rule-2634944150.html>

Olivia Rosane

Posted: 6:32am, April 18, 2019

The U.S. Environmental Protection Agency (EPA) passed a new rule on asbestos Wednesday that it says will "close the door" on new, unapproved uses. But public health advocates warn the rule could actually open the door to increased use of the carcinogenic fibrous material.

The Significant New Use Rule (SNUR) would require any company seeking to manufacture or import asbestos for any of 15 discontinued purposes would need to get the approval of the EPA. The regulation also includes a blanket rule requiring review for "any use of asbestos not previously identified," The New York Times reported.

"Prior to this new rule, EPA did not have the ability to prevent or restrict certain asbestos products from being reintroduced into the market," EPA Administrator Andrew Wheeler said in a statement reported by The New York Times.

However, some public health advocates worry that the rule creates a mechanism by which companies can introduce new uses of asbestos as long as they get approval.

"This toothless regulation requires companies to seek approval from EPA to resume manufacturing, importing, and processing of asbestos for 15 obsolete uses. It does not ban these uses, but leaves the door open to their return to the marketplace. To think that any company would willingly attempt to resurrect these 15 obsolete asbestos uses is ludicrous. That EPA would enable it is unconscionable," Asbestos Disease Awareness Organization President Linda Reinstein said in a statement.

Reinstein also noted that the rule does not cover existing uses of asbestos, such as its use by the Chlor-Alkali industry. It also does nothing about the asbestos left in schools, homes and offices from when the material was widely used as an insulator and flame retardant.

Assistant administrator at the EPA's chemical office Alexandra Dunn told CNN that the agency was still reviewing current uses of asbestos and might propose additional regulations or bans. A few days before the new rule was announced, Wheeler told the House Energy and Commerce Committee he would ban current uses, The New York Times reported, but health advocates like Reinstein argue that Wednesday's rule does not qualify.

Consumer protection groups have spent a decade lobbying for a law change that would empower the EPA to fully ban asbestos, which kills between 12,000 and 39,275 Americans each year. When an amendment to the Toxic Substances Control Act was finally passed in 2016, requiring the EPA to assess and regulate chemicals and enabling it to do so based exclusively on their health and environmental impacts, advocates hoped a ban was in sight.

Asbestos was added to the first 10 chemicals to be assessed under the amendment, but when the EPA first issued its proposed SNUR in June 2018, advocates were disappointed. Some employees voiced concerns the rule could open the door to new asbestos uses.

The final rule is stronger than the original proposal, The New York Times pointed out, because it requires approval for any new use, not just one of 15 former uses. Some public health advocates do think it is a good start.

"Most of the things coming out of the EPA these days aren't good," retired EPA employee and current Environmental Protection Network member Gary Timm told CNN, "but their asbestos work is so well documented." However, he also thought a full ban would be a logical next step.

Environmental Working Group legislative attorney Melanie Benesh also thought a full ban was in order.

"This new rule makes it more difficult for industry to resume some abandoned uses of asbestos, but that is a half step at best," Benesh said in a statement. "Administrator Wheeler should use the authority under the new Toxic Substances Control Act law and ban all uses of asbestos. That is the only way the public can trust industry will never again be able to use this dangerous material that has literally killed tens of thousands of Americans."

The Hill

Critics say new EPA rule could reintroduce asbestos use

<https://thehill.com/policy/energy-environment/439395-critics-say-new-epa-rule-could-reintroduce-asbestos-use>

Rebecca Beitsch

Posted: 4:27pm, April 17, 2019

The Environmental Protection Agency (EPA) announced Wednesday a new rule they say will limit the use of asbestos in the U.S., but critics, including some of the agency's own staff, describe it as a half measure that could reintroduce some asbestos products to the market.

The EPA said the new rule closes a loophole from a 30-year-old law that prevented the agency from restricting the sale of certain asbestos products.

"Today, we are following the laws Congress gave us to close the door on certain asbestos products to prevent them from returning to the marketplace without EPA's review," Alexandra Dapolito Dunn, assistant administrator of the Office of Chemical Safety and Pollution Prevention, said in a release, referring to a 2016 law that gave the EPA the power to prohibit asbestos.

But many argue the review process itself could reopen the door to 15 uses of the substance while questioning why the agency didn't outright ban asbestos.

Under the new rule, manufacturers must notify and seek approval from the EPA before resuming use of asbestos in certain cases.

"To think that any company would willingly attempt to resurrect these 15 obsolete asbestos uses is ludicrous. That EPA would enable it is unconscionable," the Asbestos Disease Awareness Organization, which was founded by asbestos victims, wrote in a statement.

Asbestos is currently not banned by the federal government, although the once widely used substance is now almost never used in ways that would expose people to it. Officials have known for decades that asbestos causes illnesses like lung cancer, mesothelioma and asbestosis.

"This new rule makes it more difficult for industry to resume some abandoned uses of asbestos, but that is a half step at best," Melanie Benesh, legislative attorney at the Environmental Working Group, wrote in a press release. An outright ban "is the only way the public can trust industry will never again be able to use this dangerous material that has literally killed tens of thousands of Americans."

EPA career staff also questioned why the agency stopped short of a ban when the rule was being developed in the spring of last year.

"This new approach allows asbestos-containing products that are not currently used to be used in the future," Mark Seltzer, an attorney in the EPA's enforcement office, told his colleagues in emails first reported on by The New York Times last August. "Many manufacturers have stopped using asbestos in their products but would be allowed to through this."

Sharon Cooperstein from the EPA's policy office said in one of the emails that senior officials have "provided the workgroup no clear explanation of why the new approach is preferable" to broader restrictions.

The EPA responded to earlier criticism of the rule saying it was inaccurately being portrayed as opening the floodgates to asbestos.

"If someone wants to start the manufacturing and processing, if we find risk, we can prevent it," said Nancy Beck, principal deputy assistant administrator for the Office of Chemical Safety and Pollution Prevention, told The Hill. "This is a very good story for public health protection."

It's possible past remarks by President Trump also fueled skepticism about the EPA's intentions.

"If we didn't remove incredibly powerful fire retardant asbestos & replace it with junk that doesn't work, the World Trade Center would never have burned down," he tweeted in 2012. In his 1997 book "Art of the Comeback," he speculated that the mob had led efforts to stop its use.

The National Law Review

EPA Announces Final SNUR for Asbestos Will "Close Loophole and Protect Consumers"

<https://www.natlawreview.com/article/epa-announces-final-snur-asbestos-will-close-loophole-and-protect-consumers>

Staff

Posted: 3:00pm, April 18, 2019

On April 17, 2019, the U.S. Environmental Protection Agency (EPA) released a final significant new use rule (SNUR) for asbestos using the definition in Title II, Section 202 of the Toxic Substances Control Act (TSCA), which defines asbestos as the "asbestiform varieties of six fiber types -- chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite." EPA states that it is promulgating the SNUR "to ensure that any discontinued uses of asbestos cannot re-enter the marketplace without EPA review, closing a loophole in the regulatory regime for asbestos." The restricted significant new uses of asbestos (including as part of an article) are manufacturing (including importing) or processing for uses that are neither ongoing nor already prohibited under TSCA. Persons subject to the SNUR may not undertake any of these activities; they are required to notify EPA at least 90 days before commencing any manufacturing (including importing) or processing of asbestos (including as part of an article) for a significant new use. The required notification initiates EPA's evaluation of the conditions of use associated with the intended use. Manufacturing (including importing) and processing (including as part of an article) for the significant new use may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. The final SNUR will be effective 60 days after being published in the *Federal Register*.

The final SNUR takes pains to clarify that the conditions of use of asbestos that are currently ongoing, including asbestos diaphragms used in the chloralkalai industry, sheet gaskets used in chemical manufacturing, and others, are not affected by the SNUR. EPA also used the rule development process to clarify and reduce the list of ongoing conditions of use of asbestos that are being considered in the asbestos risk evaluation that is currently underway. Thus, certain uses previously included in the risk evaluation (cement products, packings, and woven products) as ongoing were determined by EPA not to be ongoing and were removed from the scope of the risk evaluation and have been included in and are subject to the final SNUR. Finally, according to EPA, all of the ongoing uses of asbestos are specific to the chrysotile form only. Accordingly, manufacture, import, mining, or processing, including as articles, of any other form of asbestos for any use whatsoever is regulated as a significant new use under the final rule.

Restrictions on Discontinued Uses of Asbestos

According to EPA's ["Frequently Asked Questions Regarding EPA's Final Asbestos Rule,"](#) in response to comments on EPA's June 11, 2018, [proposed rule](#), EPA "expanded the scope of the final rule to include an additional four categories of products and a 'catch all' category." The following uses are subject to the final SNUR and cannot return to the marketplace without EPA review: adhesives, sealants, and roof and non-roof coatings; arc chutes; beater-add gaskets; cement products; extruded sealant tape and other tape; filler for acetylene cylinders; friction materials (with certain exceptions identified in Table 1 of the final SNUR and [posted online](#)); high-grade electrical paper; millboard; missile liner; packings; pipeline wrap; reinforced plastics; roofing felt; separators in fuel cells and batteries; vinyl-asbestos floor tile; woven products; any other building material; and any other use of asbestos not otherwise identified. Consistent with the proposed rule, the final SNUR makes inapplicable the exemption at 40 C.F.R. Section 721.45(f) concerning importation or processing of asbestos-containing articles for the significant new uses included in the final rule.

The SNUR prohibits the discontinued uses of asbestos from restarting without EPA having an opportunity to evaluate each intended use (*i.e.*, significant new use) for potential risks to health and the environment and, as required by TSCA Section 5(a)(3), making an appropriate determination and taking any necessary regulatory action, which may include a prohibition, required by that determination. EPA makes clear that the SNUR does not provide a means by which prohibited uses under the 1989 partial ban under TSCA Section 6(a) could return to the marketplace. The SNUR keeps all prior TSCA Section 6(a) prohibitions on asbestos in place and does not amend them in any way. More information on EPA's June 11, 2018, proposed SNUR is available in our June 5, 2018, memorandum, ["EPA Takes 'Three Important Steps' Intended to Ensure Chemical Safety."](#)

Risk Evaluation of Asbestos

In December 2016, EPA designated asbestos as one of the first ten chemical substances subject to EPA's chemical risk evaluation rule. EPA is conducting a risk evaluation of asbestos under its conditions of use, pursuant to TSCA Section 6(b)(4)(A). According to the SNUR, through scoping and subsequent research for the asbestos risk evaluation, EPA identified several conditions of use of asbestos to include in the risk evaluation. Through extensive research, review of public comments, and stakeholder engagement, EPA has further refined the conditions of use of asbestos since publication of the proposed SNUR and [Problem Formulation of the Risk Evaluation for Asbestos](#) in June 2018. EPA states that the conditions of use of asbestos currently undergoing risk evaluation are specific to the chrysotile form only and include: imported raw bulk chrysotile asbestos for the fabrication of diaphragms for use in chlorine and sodium hydroxide production; and several imported chrysotile asbestos-containing materials, including sheet gaskets for use in chemical production (*e.g.*, titanium dioxide production), brake blocks used in oil drilling equipment, aftermarket automotive brakes/linings and other vehicle friction products, and other gaskets. EPA has removed cement products, woven products, and packings from the scope of the risk evaluation since publication of the problem formulation document because it found no information to confirm they are conditions of use. EPA states that because additional EPA research indicates that cement products, woven products, and packings are not ongoing uses, the SNUR includes them as significant new uses. The final SNUR does not affect those uses that EPA believes are currently ongoing in the U.S.; again, those uses are being evaluated in the context of EPA's asbestos risk evaluation. More information on the Problem Formulation of the Risk Evaluation for Asbestos is available in our June 5, 2018, memorandum, ["EPA Takes 'Three Important Steps' Intended to Ensure Chemical Safety."](#)

Commentary

We congratulate EPA for taking strong and decisive action under the final SNUR effectively to prohibit all non-ongoing conditions of use of asbestos. While this prohibition is conditioned by the ability for a person to submit a significant new use notice (SNUN), the legal effect of a SNUR was considerably strengthened by new TSCA which explicitly requires that EPA review and make a determination on the proposed significant new use and take any actions required by that determination, including any needed restrictions or prohibitions. Furthermore, new TSCA makes clear that

commercialization cannot proceed until EPA has met these requirements. With this statutory infrastructure in place, we believe that it is appropriate to characterize this regulatory action as having the effect of a prohibition.

We also appreciate the clarity in EPA's discussion of the regulatory effect of the SNUR under amended TSCA by making clear that:

- The SNUR does not provide a means for Section 6(a) prohibited uses to return to the marketplace;
- All ongoing conditions of use of asbestos are being considered in the asbestos risk evaluation and are not subject to the SNUR;
- Any use of the five non-chrysotile forms of asbestos (crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, and actinolite) require a SNUN; and
- The final SNUR has the effect of closing the "loophole" that otherwise exists whereby the significant new uses identified in the rule may begin at any time without prior notice to EPA.

Furthermore, we commend EPA, in considering and responding to comments, for the decision to include in the final rule's regulatory text a new broad use category to ensure that all other uses of asbestos that are no longer ongoing and not already prohibited under TSCA are captured in and explicitly subject to the final SNUR.

In our view, the clear, strong, and decisive actions taken by EPA in the final rule should fully address the criticisms and complaints, some misguided, that were raised by some stakeholders in response to the proposed rule.

The New York Times

E.P.A Moves to 'Close the Door' on Asbestos. Consumer Groups Say Loopholes Remain.

<https://www.nytimes.com/2019/04/17/climate/epa-asbestos-rule.html>

Lisa Friedman

Posted: April 17, 2019

WASHINGTON — The Trump administration on Wednesday issued a regulation it said would impose new restrictions on asbestos, a deadly substance once commonly found in insulation materials.

The final Environmental Protection Agency rule goes somewhat further than the initial version the agency had proposed, but public health advocates said it still fell short of the protections needed.

Under the rule, the agency will require companies to obtain federal approval in order to domestically manufacture or import specific types of products using asbestos. Alexandra Dapolito Dunn, the E.P.A. assistant administrator for chemical safety and pollution prevention, said the rule would "close the door" on using asbestos without approval.

Asbestos is a set of six naturally occurring fibrous minerals that have the ability to resist heat, fire and electricity but are also known carcinogens. Under the rule, if a company wanted to use the substance in any of 15 specific ways, including as a component in floor tile or roofing felt, it would have to seek E.P.A. review and approval. Previously banned asbestos items like pipe insulation would remain banned.

"Prior to this new rule, E.P.A. did not have the ability to prevent or restrict certain asbestos products from being reintroduced into the market," Andrew Wheeler, the agency's administrator, said in a statement. He said the measure gave regulators "unprecedented authorities" to prohibit asbestos products from entering or re-entering the market.

The move comes just days after Mr. Wheeler testified before the House Energy and Commerce Committee that he would commit to banning current uses of asbestos under federal chemical safety law. Consumer groups said the E.P.A.'s new regulation falls well short of that pledge.

Linda Reinstein, president of Asbestos Disease Awareness Organization, an asbestos victim advocacy group, called the rule "toothless." She noted that the regulation does not restrict the import of raw asbestos, which is commonly used in the chlorine industry.

According to the organization, asbestos poisoning is linked to about 40,000 deaths in the United States annually.

"More than 60 nations around the world have put public health before private profits and banned asbestos," Ms. Reinstein said. "Americans deserve the same from our government."

The E.P.A. was required to create the new process for regulating uses of asbestos under a 2016 amendment to the Toxic Substances Control Act. That Obama-era amendment requires the agency to regularly re-evaluate the harmfulness of toxic materials.

A version of the asbestos rule put forward last year prompted an outcry from E.P.A. scientists, who said in internal emails obtained by The New York Times that they feared the regulation would make it easier for asbestos to come back into more widespread use.

But public health activists said the final rule had one important improvement over the previous version. It added a catchall category of "any use of asbestos not previously identified" that also would trigger review.

Gary Timm, a former chief of chemical testing at the E.P.A. who retired in 2011 and now works with the Environmental Protection Network, a consortium of former agency employees that has been critical of the rule, praised the measure on Wednesday and said the group would not oppose it.

"A complete ban is appropriate but this is an easier thing to do. It's something that should put a fence around the current uses," Mr. Timm said. "It's a partial step, a good first step."

Herbicides

Bloomberg Environment

Wildfires, Invasive Grass Threaten Future of Western Sagebrush

<https://news.bloombergenvironment.com/environment-and-energy/wildfires-invasive-grass-threatens-future-of-western-sagebrush>

Rebecca Kern

Posted: 6:00am, April 18, 2019

- 11 of 50 biggest fires in last 20 years are in the Great Basin, where invasive cheatgrass is spreading
- Federal agencies using herbicides, reseeding to fight grass, but with limited success

A grand duel is taking place out West, but no cowboys are involved.

It's between the native sagebrush, which has dominated the Western landscape for more 12,000 years, and a newer, highly invasive and flammable species called cheatgrass.

Saying the word "cheatgrass" alone evokes frustration among federal and state officials, who are doing their best with limited resources and tools that include herbicide use, targeted grazing, and reseeding, to fight for sagebrush's

existence. But it's with limited success. The grass is highly flammable and with increasingly dry climates and wildfires, the grass is spreading faster than it can be stopped and changing entire ecosystems.

"The color of Nevada has changed from a sagebrush silver gray to a cheatgrass tawny brown," Alan Jenne, the habitat division administrator Nevada Department of Wildlife, said of the vast expansion of cheatgrass in the state since the 1990s.

Over past the 20 years, wildfires in shrublands and grasslands, which make up one-third of the U.S., have burned more acres than forested lands, but tend to get less media attention.

"Science has already shown us that having cheatgrass doubles the risk of wildfire," said Jeremy Maestas, a sagebrush ecosystem specialist with the Agriculture Department's Natural Resources Conservation Service in Portland, Ore.

"In the biggest of pictures, when we talk fire in forests we need to also be talking fires in rangelands and the connection between fire and cheatgrass," he told Bloomberg Environment.

Cheatgrass is particularly pernicious in the Great Basin, which covers most of Nevada, half of Utah, and sections of Idaho, Wyoming, Oregon, and California.

The Interior Department's Bureau of Land Management manages 60 percent of the basin. It is home to most of the 200 million-acre native sagebrush biome in the U.S., which is the largest terrestrial ecosystem in North America, Maestas said.

Humans are the source of 84 percent of wildfires, and not all are intentional. Often they come from vehicle accidents in dry landscapes.

In fact, over the last 20 years, 11 of the 50 largest wildfires in the U.S. have occurred in the Great Basin.

From 2000 to 2018, approximately 15 million acres of sagebrush burned primarily in the Great Basin, and approximately 9 million of those acres burned from 2014 to 2018 alone, said Michele Crist, a landscape ecologist at the Bureau of Land Management's Boise, Idaho, office.

And the issue is further complicated by the increasing number of people moving to the Western U.S., particularly to Boise, the fastest growing city in the U.S., Crist said.

"It's surrounded by sagebrush landscapes that are being taken over by cheatgrass," she said.

Kelly Pohl, a researcher at Headwaters Economics, a research company in Bozeman, Mont., is working with Western communities impacted by wildfires to establish building codes and landscaping regulations to better adapted to fire risk.

"The reason it's a disaster is because we're putting people in those places," she said. "So that was our big question, how can communities be more resilient in the face of wildfires."

Wildfire, Cheatgrass Feedback Loop

Cheatgrass was first brought to the Western U.S. in the late 1890s in hay bales purchased from Asia to feed horse and cattle in the winter. In Asia, they would put in cheatgrass instead of hay.

"That's why they call it cheatgrass," Crist said.

Wildfires used to occur every hundred years on sagebrush rangelands in the pre-European settlement, but ever since the 1990s, fires have occurred every 7 to 15 years, Crist told reporters during a recent presentation at the Institute for Journalism & Natural Resources wildfire workshop in Missoula, Mont.

Maestas calls it a “wildfire and cheatgrass feedback loop.” Cheatgrass is an annual grass, meaning it needs to be reseeded each year to grow. But cheatgrass are “prolific seeders,” he said, producing up to 1,500 seeds per square foot.

Sagebrush is a perennial shrub that comes back every year. But when sagebrush burns, it has to be reseeded and can take up to 20 to 30 years to regrow, Crist said. Cheatgrass spreads its seeds on burs that can be spread by wildfire and regrows in just one season.

“In the spring, cheatgrass is there to cheat the native vegetation of soil moisture,” Maestas said.

Then, if a wildfire catches cheatgrass, it leads to a continuous burn. “Cheatgrass forms a mass of vegetation versus clumps like our native plants, like sagebrush, so it’s much easier for fire to burn through that quickly,” he said. Cheatgrass also dries out in June and July, which is earlier than native species that stay green until August.

The cheatgrass and wildfire cycles are also threatening the habitats of 350 species across 13 states, most famously the sage grouse, whose burned habitats are threatening to land it on its endangered species list.

“The sage grouse is an iconic species and is an indicative species of the health of this ecosystem,” Jolie Pollet, the BLM division chief for fire planning and fuels management in the Boise office. She said she’s very concerned about future habitat loss being a “growing and continual problem.”

Management of Cheatgrass

The Bureau of Land Management and the Forest Service are using several tactics to manage cheatgrass growth. One of them is by spraying herbicides to prevent cheatgrass seeds from germinating and emerging.

Every herbicide used goes through EPA testing and certification. The herbicides are targeted at the life cycle of the invasive plant and don’t affect native species, and they work on applying it strategically, Maestas said.

Additionally, going in and doing post-fire rehabilitation and reseeding native species, like sagebrush and other native perennial grasses is something the federal agencies are doing to prevent regrowth of cheatgrass after fires.

Other solutions include targeted livestock grazing on cheatgrass during certain seasons. During the spring, “it’s green and delicious,” Maestas said.

“Cheatgrass is a tough nut to crack,” said Jeanne Chambers, a research ecologist with the Forest Service in Reno, Nev. “I think that we are providing new tools to better target the work we do.”

“We still need more research on the effect on targeted grazing on native ecosystem over time,” Chambers added.

Maestas said BLM and the Forest Service are also doing prescribed or planned burns of conifers, like pinyon and juniper, that are encroaching into lower elevations of sagebrush habitats.

Lastly, the agencies are trying to experiment with natural fungus from Asia that can kill a large swath of cheatgrass. So far this strategy hasn’t worked, but there’s a lot of research going into that, Crist said.

In fact, an April 16 cross-federal agency scientific framework provided recommendations for federal, state, and private land owners on managing invasive species and wildfires to help conserve sagebrush. Crist and Chambers contributed to the report.

BLM's Pollet said there are limited successes, "but not really anything widespread enough to get at this issue on that really large scale that we're experiencing."

But Nevada Department of Wildlife's Jenne said he's staying in the cheatgrass battle.

"I have seen more positive results, we've refined our techniques, we've learned lessons, we've improved our successes," he said. "Each year we will progress in this battle. Cheatgrass is a tough competitor, but I think we are gaining ground."

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Environmental Health News

NYC leaders join calls for ban on Monsanto herbicide

<https://www.ehn.org/monsantos-herbicide-defense-falling-on-deaf-ears-as-nyc-leaders-join-calls-for-ban-2634974362.html>

Carey Gillam

Posted: April 18, 2019

Two New York City council members introduced legislation today that would ban city agencies from spraying glyphosate-based herbicides and other toxic pesticides in parks and other public spaces.

The move is the latest in a groundswell of concern over pesticide use, particularly exposures to weed killing products developed by Monsanto, which is now a unit of Bayer AG. Cities, school districts and suppliers across the U.S. are increasingly halting use of the pesticides.

It is also a further sign that a growing number of people – consumers, educators, business leaders and others - are rejecting assurances from Monsanto and Bayer that glyphosate herbicides such as Roundup are safe for widespread use.

Bayer has recently taken out large advertisements in the Wall Street Journal and The New York Times and has been running television and Internet ad campaigns to defend the safety of its weed killing products. But concerns continue to mount.

"Parks should be for playing not pesticides," said New York City council member Ben Kallos, a co-sponsor of the measure. "All families should be able to enjoy our city parks without having to worry that they are being exposed to toxic pesticides that could give them and their families cancer."

The New York City measure would prohibit the application of synthetic pesticides within 75 feet of a natural body of water. And it would encourage city agencies to move to the use of biological pesticides, which are derived from naturally occurring substances rather than synthetic substances.

Glyphosate is commonly used in New York City, sprayed hundreds of times a year onto public greenspaces to treat weeds and overgrowth. Kallos told EHN he fears letting his young daughter play in famed Central Park because of the dangers of pesticide exposure.

Science, public awareness grow

Glyphosate is the world's most widely used herbicide and is the active ingredient in not only Roundup brands but also hundreds of others sold around the world.

Since patenting glyphosate as a weed killer in 1974, Monsanto has always asserted it does not cause cancer and is much safer for people and the environment than other pesticides.

But scientific research developed over the last several decades has contradicted those corporate claims. Concerns escalated after the International Agency for Research on Cancer classified glyphosate as a probable human carcinogen in 2015.

More than 11,000 cancer victims are suing Monsanto alleging exposure to Roundup and other glyphosate products the company sells caused them to develop non-Hodgkin lymphoma.

The lawsuits also claim the company has long known about the cancer risks but has worked to keep that information from the public, in part by manipulating scientific data relied on by regulators.

The first two trials have ended in unanimous jury verdicts in favor of plaintiffs. A third trial is underway in California now.

Kallos is hoping that public awareness generated by the trials will drive support for his bill. A similar measure introduced in 2015 failed to gather enough support to pass.

"The science gets stronger and stronger every day, and public interest around the issue is getting stronger," said Kallos.

Latest effort to limit or ban

The effort in New York is just one of many around the United States to ban or limit applications of glyphosate products and other pesticides.

City commissioners in Miami voted in favor of a ban on glyphosate herbicides in February. In March, the Los Angeles County Board of Supervisors issued a moratorium on glyphosate applications on county property to allow for a safety evaluation by public health and environmental experts.

The list of school districts, cities and home owners groups that have banned or limited the use of glyphosate and other similarly hazardous pesticides includes many in California where the state's Office of Environmental Health Hazard Assessment (OEHHA) lists glyphosate as a known carcinogen.

This week, a group of Leesburg, Virginia, residents called on the town's officials to stop using glyphosate along area stream banks.

Some large suppliers have also started backing away from glyphosate products. Harrell's, a Florida-based turf, golf course and agricultural product supplier, stopped offering glyphosate products as of March 1.

Harrell's CEO Jack Harrell Jr. said the company's insurance provider was no longer willing to provide coverage for claims related to glyphosate, and the company was unable to secure adequate coverage from other insurers.

Costco has stopped selling Roundup—a corporate spokesperson says that they've removed the product from inventory for 2019. Salespeople at various stores contacted confirmed that they no longer offer the products.

And large independent garden center company Pike Nurseries in Georgia said earlier this month it is not restocking Roundup supplies due to declining sales.

On trial

The shunning of Monsanto's products has not been helped by global publicity surrounding the first three Roundup cancer trials, which have placed internal Monsanto emails and strategic planning reports into the public spotlight and elicited testimony about the company's handling of sensitive scientific concerns about perceived hazards of its herbicides.

In the trial currently underway, a case brought by a husband and wife who both have non-Hodgkin lymphoma they blame on their use of Roundup, evidence was introduced last week about the ease with which the weed killer can absorb into human skin.

Evidence was also laid out showing that Monsanto worked closely with the Environmental Protection Agency to block a toxicity review of glyphosate by a separate government agency.

The current trial, and the two previous trials, have all included evidence that Monsanto engaged in ghostwriting certain scientific papers that concluded glyphosate products were safe; and that Monsanto spent millions of dollars on projects aimed at countering the conclusions of the international cancer scientists who classified glyphosate as a probable carcinogen.

Bayer's annual shareholders meeting is set for April 26 and angry investors are calling for answers from Bayer CEO Werner Baumann who drove the acquisition of Monsanto, closing the \$63 billion deal just before the first Roundup cancer trial started last June.

The company maintains glyphosate herbicides are not carcinogenic and it will ultimately prevail.

But Susquehanna Financial Group analyst Tom Claps has warned shareholders to brace for a global settlement of between \$2.5 billion and \$4.5 billion. "It's not a matter of 'if' Bayer will reach a global Roundup settlement, it is a matter of 'when,'" Claps told investors in a recent report.

U.S. District Judge Vince Chhabria has ordered Bayer to enter into mediation, to discuss just such a potential settlement of the Roundup litigation.

Carey Gillam is a journalist and author, and a public interest researcher for US Right to Know, a not-for-profit food industry research group. You can follow her on Twitter @careygillam

Pesticides

CBS News

Earth Day Challenge for gardeners: Don't poison bees

<https://www.cbsnews.com/news/earth-day-challenge-for-gardeners-dont-poison-bees/>

Rachel Layne

Posted: 5:00am, April 18, 2019

- A group of pesticides called neonicotinoids has been linked to the mass deaths of bees and other pollinators.
- While the problem is global, it's also one that individual home gardeners can help resolve by being careful about the plants they buy.
- To help consumers, more retail garden centers are curbing, ending or labeling plants treated with neonicotinoid pesticides.

- Home Depot, Walmart, Ace and TruValue are among national retailers taking these steps.

When tens of thousands of honeybees were found dead in a parking lot in Oregon in 2013, public awareness of a group of pesticides derived from nicotine swarmed across the public radar. The bee deaths were linked to a group of pesticides called neonicotinoids and were particularly alarming given the essential role bees and other pollinators play in food and plant production.

Groups like Friends of the Earth zeroed in on the issue, lobbying for changes from retailers and state governments, where a large number of consumer regulations are crafted. The focus on retailers and home gardeners is key, given that some 90 percent of bees don't live in big hives. They tend to be loners, living in nests of fewer than a dozen insects, and they cover small areas like your garden.

That's one reason consumers who pay attention when purchasing plants, seeds and pest-fighting agents this spring could make a big difference in efforts to restore the health of bees and other pollinators, researchers said. With Earth Day coming on April 22 -- and spring planting along with it -- home gardeners are well placed to lend pollinators a helping hand.

"This is one of these global environmental problems that a single homeowner or a single individual can do something about because the habitat needs are so small," said Damon Hall, an assistant professor at the University of Missouri's school of natural resources and co-author of a recent study that tracks changes in state laws governing neonicotinoid pesticides.

Know what you're buying

States including Minnesota, California, Connecticut, Maryland, New Mexico and Oregon have modified or are considering changes to pesticide laws so consumers know whether the plants they're buying have been treated with potentially bee-killing neonicotinoids, according to the National Caucus of Environmental Legislators and Hall's own research.

"So no matter what you have -- if it's a 20-by-10 yard space -- you can have certain species of bees. Solitary small ones can live their entire lives in an area that size, provided they have enough flowers and a place to nest," Hall told CBS MoneyWatch. "That's what's really striking about this. There's so few global environmental problems that a single person can do something about."

Neonicotinoids gained widespread use in the 1990s as a safer alternative to existing pesticides for farmers. Yet a growing number of studies show they're harmful to pollinators like bees and butterflies because they can become pervasive in the greater environment. Last year, the European Union agreed to ban the pesticide group to protect pollinators.

In the U.S., the number of home gardeners is growing, particularly among those under age of 35, according to an annual gardening survey from Gardenresearch.com. Americans spent a record \$47.8 billion on their gardens and lawns in 2017, according to the latest data. The average household plunked down \$503, up roughly \$100 from 2016.

Big retailers respond

That could be another reason the number of companies taking action is on the rise. Today, big chains with garden centers like Home Depot, Walmart, Ace Hardware and True Value are making good on pledges to stop selling neonicotinoid-treated products, from seeds to live plants. And many more are joining in the effort as they court concerned gardeners, according to a tally from Friends of the Earth.

Home Depot now says 97 percent of live goods it sells are neonicotinoid-free after launching a program in 2014 and working with suppliers, according to an e-mailed statement from the retailer.

Lowe's continues to cut products "containing neonics, but there are numerous reasons why elimination is not a viable short-term goal; for example, some states require the use of neonicotinoids," the retailer said in an email to CBS MoneyWatch. Lowe's, which formalized a phase-out in 2015, said it's expanding neonicotinoid-free products and offers "educational information about neonicotinoids in-store and online."

Ace Hardware told CBS MoneyWatch more than 95 percent of insecticide products sold among its independently owned and operated retail stores are neonicotinoid-free as are all of its private-label lawn and garden products. The company has added more than 90 new "natural and organic" products from brands including Scotts, Dr. Earth, Espoma, Safer/Woodstream and Monterey.

And True Value stores "successfully phased out" products with neonicotinoid pesticides since announcing it would do so in 2015, the company said in an email to CBS Moneywatch. And Walmart said in an e-mailed statement that it abides by all state laws when it comes to the class of pesticides.

Hall recommends that consumers ask their garden centers how products are labeled and what their policy is before buying. "First, talk to the garden center employees and managers, and get on the phone with them before you go in there," he said. "Are they as a staff thinking about these issues? Are they aware? And if not, then there's no reason to shop there. There are other places that are very conscious and very aware."

First published on April 18, 2019 / 5:00 AM

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E&E News

Gillibrand bill would ban chlorpyrifos in school lunches

<https://www.eenews.net/greenwire/stories/1060178475/search?keyword=EPA>

Marc Heller

Posted: April 18, 2019

Sen. Kirsten Gillibrand, a presidential candidate, has introduced legislation to keep food treated with the pesticide chlorpyrifos out of schools.

The New York Democrat proposed the "Safe School Meals for Kids Act," S. 1187, which would prohibit schools from buying food with detectable levels of chlorpyrifos.

Chlorpyrifos is a pesticide commonly used on apples, oranges, strawberries and other crops. Studies have linked it to developmental disabilities in children, although there's debate about whether residue occurs in big enough amounts to pose human health threats.

The senator has led efforts in Congress to ban chlorpyrifos — a move EPA was contemplating during the Obama administration but abandoned soon after President Trump came to office and put Scott Pruitt in charge of the agency.

"As a mother of two young sons, it's alarming that the food in school meals could contain even a trace of a chemical that could harm students' development and ability to learn," said Gillibrand, a member of the Senate Agriculture, Nutrition and Forestry Committee, in a news release.

Gillibrand's bill would prohibit schools from purchasing food for school meals with chlorpyrifos residue greater than 0.001 microgram per kilogram, the lowest possible limit detectable by modern testing systems. It also would require the secretary of Agriculture to report every two years on compliance, for a period of 10 years.

The pesticide's maker, Corteva Agriscience, has said it's a critical tool for farmers, adding that regulatory agencies in 79 countries have reviewed the science and continued to approve its use.

Last year, the 9th U.S. Circuit Court of Appeals ordered EPA to effectively stop the use of chlorpyrifos, citing the potential health risks. The Trump administration appealed the ruling, and the case remains pending.

PFAS

Chemical Watch

Georgia legislature sends PFAS firefighting foam bill to governor

<https://chemicalwatch.com/76694/georgia-legislature-sends-pfas-firefighting-foam-bill-to-governor>

Staff

Posted: April 18, 2019

Georgia has become the latest US state to take action to restrict the use of firefighting foams containing per- and polyfluoroalkyl substances (PFASs).

On 11 April, with nearly unanimous approval in both chambers, the state's legislature sent HB 458 to Governor Brian Kemp.

If signed into law, the measure will amend Georgia's firefighting foam regulations to prohibit the non-emergency use of Class B firefighting foam containing PFAS chemicals. However, the bill contains exceptions for training and testing at a facility that "has implemented containment, treatment and disposal measures to prevent uncontrolled releases" to the environment.

It is scheduled to take effect from 1 January 2020.

Kentucky and Virginia have both recently enacted laws restricting the products for training or testing purposes, but unlike Georgia not allowing these activities to continue with certain controls in place. These all come on the heels of the more stringent Washington state law, passed last year, which banned the use of the foams for all but federally-mandated uses.

At the national level, the US Congress has also recently taken action on the products. A spending bill passed last autumn included a provision directing the Federal Aviation Administration (FAA) to no longer require foams to contain PFASs to meet federal requirements for airports.

A group of 40 organisations has recently pushed the agency to begin implementing this change.

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TSCA

Chemical Watch

California clarifies methylene chloride paint remover compliance

<https://chemicalwatch.com/76653/california-clarifies-methylene-chloride-paint-remover-compliance?q=EPA>

Kelly Franklin

Posted: April 18, 2019

Continued sales to distributors will still trigger alternatives analysis requirement

California's Department of Toxic Substances Control has issued guidance for complying with its regulations regarding paint removers containing methylene chloride, after the US EPA issued a rule banning the products for consumer uses.

The DTSC designated paint and varnish removers containing methylene chloride as priority products under its Safer Consumer Products programme effective 1 January. This triggered the requirement for any manufacturer selling these products in California to submit a notification by 4 March.

Under the state's scheme, manufacturers then would either need to reformulate in order to continue selling in California, or prepare an alternatives analysis.

However, last month, the EPA issued a final rule under TSCA banning the products for consumer uses. And this, said the DTSC in a 10 April memo, may result in manufacturers also covered by its regulations removing products from commerce by the EPA's November retail sales prohibition.

The memo advises those who will be pulling their products to submit a product removal intent notification or a product removal confirmation by 1 July. The former requires the company to stop fulfilling orders in California within 90 days and to submit a removal confirmation once it has done so.

But the DTSC noted that the EPA's ban extends only to retail sales and not to distributors who sell only to commercial end users.

And if a manufacturer continues to sell to these distributors, the company "should continue to comply with all requirements of the Safer Consumer Products regulations, including the submittal of a preliminary alternatives analysis report or abridged alternatives analysis, by 1 July," it said.

According to the CalSafer information portal, ten companies have submitted priority product notifications to the state.

And a spokesperson for the DTSC told Chemical Watch it did not know yet how many, if any, of these companies will move forward with completing an alternatives analysis in light of the EPA's decision.

While the majority of companies had not responded to Chemical Watch's request for comment by press time, maintenance product company NCH Corporation said it has not made any final decisions.

The manufacturer Prosoco, meanwhile, submitted a product removal confirmation notification to the state on 4 March.

The DTSC says it is available to assist manufacturers with any questions on the regulations.

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Chemical Watch

Comment period reopened for TSCA PV29 evaluation

<https://chemicalwatch.com/76648/comment-period-reopened-for-tsca-pv29-evaluation?q=EPA>

Kelly Franklin

Posted: April 18, 2019

EPA action follows release of previously confidential studies

The US EPA is reopening the comment period on its draft TSCA risk evaluation for pigment violet 29. This is in light of its release of studies supporting the assessment that had previously been withheld as confidential.

The move follows an [announcement](#) last month that the companies that had submitted the 24 studies had "revised most of their confidentiality claims", allowing the agency to publish additional information.

Alexandra Dunn, assistant administrator to the EPA's Office of Chemical Safety and Pollution Prevention, wrote in a blogpost that the agency will therefore be taking additional comments. The period will extend beyond the initial consultation that ran from the draft evaluation's 15 November 2018 release until 14 January.

"I believe strongly that we must provide for the fullest possible public participation in all of our decision making. In addition, when new information comes to light or is made public, we want to ensure that the public has the opportunity to review and provide input to the agency before a final decision is made," she wrote.

But despite the newly available data, controversy around the substance's review continues; critics [have faulted](#) the agency for allowing the health and safety information to be published with redactions.

Testifying last week before a House of Representatives subcommittee, EPA Administrator Andrew Wheeler was pressed by Energy and Commerce Committee Chairman Frank Pallone (D-New Jersey) on whether the redacted data tables would be shared publicly.

"The data that was redacted was confidential business information," said Mr Wheeler. Under the TSCA law, the agency cannot release that information, he said.

Mr Pallone, however, responded that this was "a question of interpretation."

The comment period has been reopened for 30 days.

E&E News

Green groups call for probe of formaldehyde assessment

<https://www.eenews.net/greenwire/2019/04/18/stories/1060178741>

Courtney Columbus

Posted: April 18, 2019

Several environmental groups sent a letter to EPA this week asking the agency to investigate whether there were "losses of scientific integrity" related to an unreleased risk assessment of formaldehyde.

Public evidence and information obtained by the Union of Concerned Scientists through the Freedom of Information Act suggest "that significant and sustained political interference in the risk assessment process is harming public health by preventing communities throughout the United States from reducing exposure to the chemical," says the [letter](#), addressed to EPA scientific integrity official Francesca Grifo.

The Environmental Defense Fund, Natural Resources Defense Council and Environmental Protection Network also signed the letter, which was first reported by *Politico*.

At a congressional hearing last month, Alfredo Gómez, director of the Government Accountability Office's natural resources and environment team, said there were "questions about what happened" to the Integrated Risk Information System's assessment of formaldehyde. It had been in the works since 1997 (*E&E Daily*, March 28).

IRIS had been poised to release the formaldehyde assessment last year, but GAO found that the agency had stymied it (*E&E News PM*, March 4).

According to emails obtained by the environmental group, Erika Sasser, director of the Health and Environmental Impacts Division at the Office of Air Quality Planning and Standards, wrote that "we have a strong interest in this review and are anxious to see it completed" in a 2017 email to Jennifer Orme-Zavaleta of EPA's Office of Research and Development.

"We think that the EPA has not only the authority but the responsibility to investigate what looks like political interference related to the suppression of the formaldehyde assessment," said Genna Reed, lead science and policy analyst with the Union of Concerned Scientists.

As recently as 2017, EPA staff had prioritized the IRIS assessment, according to evidence from a Government Accountability Office report, and she added that it "seems that their scientific concerns were ignored when the agency was prioritizing IRIS assessments."

The Department of Health and Human Services has listed formaldehyde as a known human carcinogen. It is used in products such as plywood, insulation and pesticides.

"The public has the right to know what the science says about the risks of formaldehyde. If that information has been suppressed politically, the EPA must investigate and make that public," Reed said.

EPA did not immediately comment.